

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA -700015**

NOTIFICATION BY THE COMMISSIONER OF STATE TAX

Notification No. 08/2018–C.T./GST

Dated: 20/04/2018

**Subject: Circulation of the West Bengal Appellate Authority
for Advance Ruling Regulations, 2018**

In exercise of the powers conferred by section 106 of the West Bengal Goods and Services Tax Act, 2017 (West Ben. Act XVIII of 2017) (hereafter referred to as the Act) the Appellate Authority for Advance Ruling constituted under section 99 of the Act, has made procedural regulations for its functioning which are hereby circulated for the information of all concerned.

Sd/-
SMARAKI MAHAPATRA,
*Commissioner,
State Tax, West Bengal.*

**THE WEST BENGAL APPELLATE AUTHORITY
FOR ADVANCE RULING REGULATIONS, 2018**

In exercise of the power conferred by section 106 of the West Bengal Goods and Services Tax Act 2017 (hereinafter referred to as the Act), the West Bengal Appellate Authority for Advance Ruling hereby makes the following regulations.

Regulations

Regulations 1: Short title and commencement

These regulations may be called the West Bengal Appellate Authority for Advance Ruling Regulations, 2018. These shall be deemed to have come into force with effect from the 1st day of July, 2017.

Regulation 2: Definitions

In these regulations, unless the context otherwise requires,-

- (a) “authorised representative”, -
- (i) in relation to an appellant means an authorised representative as referred to in section 116 of the Act;
 - (ii) in relation to the concerned or jurisdictional officer means a person authorised in writing by the said concerned or jurisdictional officer, as the case may be, to act as an authorised representative;
- (b) “Registrar” means an officer authorised by the Commissioner of State Tax for exercising such powers and performing such functions as may be assigned under these regulations;
- (c) Rules mean the West Bengal Goods and Services Tax Rules, 2017;
- (d) Circulars mean the circulars and instructions issued under section 168 of the Act;
- (e) ‘Parties to the appeal’ mean the persons competent to file an appeal under sub-section (1) of section 100 of the Act other than the appellant;
- (f) ‘Appellate Authority’ and ‘Authority’ shall have the same meaning as under section 95 of the Act;
- (g) ‘Common working day’ shall have the same meaning as under clause (27) of section 2 of the Act.

Regulation 3: Powers and functions of the Registrar

- (a) The Registrar shall be in overall charge of the office of the Appellate Authority and shall function under their direct supervision.
- (b) The Registrar shall –
- (i) have custody of the records and the official seal of the Appellate Authority;
 - (ii) receive all appeal petitions filed before the Appellate Authority under sub-section (1) of section 100 of the Act, or reference made to the Appellate Authority under sub-section (5) of section 98 of the Act;
 - (iii) scrutinize the appeal petitions and point out omissions and defects therein and

- require the appellant to make good the omissions or remove the defects within the time granted by him and, in case of non-compliance, place such appeal petitions before the Appellate Authority for appropriate orders;
- (iv) place all the appeal petitions or references before the Appellate Authority for appropriate orders;
 - (v) forward a copy of the appeal petition along with its enclosures to the parties to the appeal and also communicate to the appellant and the parties to the appeal the date of hearing for appearance before the Appellate Authority;
 - (vi) issue notices or other processes, as may be ordered by the Appellate Authority;
 - (vii) verify service of notices or other processes on the appellant and obtain necessary orders of the Appellate Authority in case of defective service;
 - (viii) requisition records from the custody of any person upon orders of the Appellate Authority;
 - (ix) return original records to the person from whose custody they were requisitioned;
 - (x) grant to the appellant certified copies of the orders / advance rulings;
 - (xi) preserve records of every application and other materials for a period of five years from the date of disposal of the application and to weed out / destroy the same thereafter unless otherwise directed by the Appellate Authority; and
 - (xii) discharge any other function as may be assigned by the Appellate Authority by any special or general order.

Regulation 4: Signing of notices, etc.

Every requisition, letter, or notice to be issued on behalf of the Appellate Authority shall be signed by the authorised officer except when otherwise provided in the Act and rules made thereunder.

Regulation 5: Mode of service of notices etc.

- (a) Every notice or other document required to be served on or delivered to any person in compliance with the orders of the Appellate Authority shall be in the manner specified hereunder.
- (b) The service of notice or document shall be made by hand delivery or by registered post with acknowledgement due or by speed post or by courier service or by any means of transmission of documents including e-mail/fax.
- (c) Notices or documents required to be served on the applicant shall be deemed to have been served if delivered at the addressor e-mail id indicated in the appeal petition.

Regulation 6: Procedure for filing appeal petitions

- (a) An appeal against the advance ruling under sub-section (1) of section 100 of the Act before the Appellate Authority shall be filed in the prescribed form, that is to say, Form GST-ARA 02 or GST-ARA 03, as the case may be, through the Common Portal, or in accordance with rule 107A and circulars issued in this regard, and shall be filed within thirty days from the date on which the ruling sought to be appealed against is communicated to the appellant, or within such further time as may be allowed under proviso to sub-section (2) of section 100 of the Act.
- (b) The hard copy of the appeal petition shall be filed in quadruplicate and presented by the appellant in person or by an authorised representative to the Registrar or sent by registered post or by courier service or by speed post addressed to the Registrar along

with the requisite fee. However, no fee is payable for filing of appeal by the concerned or jurisdictional officer.

- (c) Every appeal petition and its annexure, statements and supporting documents shall be verified and signed in the manner set out in the relevant rules and circulars.
- (d) The appeal petition shall be accompanied by evidence that the person who has signed the application and other documents is authorised / competent to sign under the rules and circulars.
- (e) Hard copy of every appeal petition shall be on legal size paper and should be neatly and legibly printed leaving and only on one side of a page in double-line spacing. Other written matters accompanying the application, including annexure, statements and documents, shall be legible and prepared in similar manner as far as possible.
- (f) An appeal petition under sub-regulation (a) shall be deemed to have been filed on the date on which hard-copy of the application transmitted electronically through the Common Portal is received in the office of the Appellate Authority.
- (g) A copy each of the appeal petition, the statement of relevant facts having a bearing on the question(s) raised and the statement containing the appellant's interpretation of law and/or facts, as the case may be, in respect of such question(s) shall also be sent as attachment in .doc or .docx format to the designated e-mail of the Appellate Authority.

Regulation 7: Procedure on receipt of an appeal petition

- (a) The Registrar receiving the appeal petition shall put his initials and the stamp thereon together with the date and time of receipt thereof and shall also acknowledge its receipt and he shall enter the particulars of the appeal in the register of daily filing, maintained for that purpose.
- (b) The appeal petition shall be scrutinized by the Registrar and any deficiency/defect noticed in the petition or annexures thereof shall be communicated to the appellant as far as possible within ten common working days from the date of receipt of the appeal petition.
- (c) The appellant shall be required to rectify the deficiency/defect within the time granted by the Registrar and such appeal shall be deemed to have been received on the date when it is re-submitted after removal of such deficiency/defect.
- (d) When an appeal petition is free from any deficiency/defect, an endorsement "examined and registered" shall be made thereon and a serial number allotted thereto. The appeal petition shall thereafter be placed before the Appellate Authority for fixing the date of hearing.
- (e) In case the deficiency/defect is not removed or made good within the time granted a under sub-regulation (c), the appeal petition shall be placed before the Appellate Authority for appropriate order.
- (f) On allotment of serial number to an appeal petition under sub-regulation (d), a copy of the petition shall be forwarded to the parties to the appeal with direction to appear before the Appellate Authority on the date fixed for hearing with all relevant records.
- (g) In the event of non-appearance of the appellant without any intimation, the Appellate Authority may pass an order confirming the advance ruling appealed against, or adjourn the case to another date for allowing the appellant another opportunity of being heard. If the appellant fails to turn up without intimation on the date to which the case has been adjourned, the Appellate Authority shall confirm the advance ruling appealed against after satisfying itself that the adjournment notice has been duly served.

- (h) The Appellate Authority, after hearing the appellant and other parties to the appeal or reference, shall pass an order confirming or modifying the advance ruling appealed against. If there is a reference made under sub-section (5) of section 98 of the Act, the Appellate Authority shall pronounce the original advance ruling, as the Authority below has failed to pronounce an advance ruling. The Appellate Authority may pass the order immediately after conclusion of the hearing or reserve its pronouncement. The order so reserved shall be pronounced in the open court under intimation to both the appellant and other parties to the appeal within a period not exceeding ninety days from the date of filing the appeal or reference in accordance with sub-section (2) of section 101 of the Act, and a copy of the order shall be served upon them. However, if one of the members of the Appellate Authority is on leave or cannot participate for the time being in the functioning of the Appellate Authority for any compelling reason, such period of absence shall be excluded while computing the limitation under sub-section (2) of section 101 of the Act.
- (i) If the members of the Appellate Authority differ on any point referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under appeal or reference.

Regulation 8: Authorisation to be filed

- (a) An authorised representative appearing for the appellant shall, before commencement of the hearing, file before the Registrar evidence of such authorisation in accordance with the provisions of the Act and rules there under.
- (b) Any change of an authorised representative shall be intimated by the concerned appellant to the Registrar.
- (c) No person other than the appellant or the authorised representative shall be heard in person save by special leave of the Appellate Authority.

Regulation 9: Supply of certified copies

The Registrar shall send certified copies of the orders/advance ruling passed in accordance with sub-regulation (g) of regulation 7 to the appellant, the parties to the appeal or the Authority in the manner prescribed under rule 105.

Regulation 10: Language of the Authority

The language of the Appellate Authority shall be English.

Regulation 11: Publication of orders/advance rulings

The orders / advance rulings of the Appellate Authority, as it deems fit for publication in any law journal or web sites, may be released for such publication on such terms and conditions as the Appellate Authority may specify.

By order of the
West Bengal Appellate Authority for Advance Ruling